



## **POSITION STATEMENT**

### **Athletic Governance Organization and Institutional Responsibilities Related to Professional Coaching Conduct<sup>1</sup>**

#### **EXECUTIVE SUMMARY**

Athletic programs pose elevated risks for their parent institutions of higher education compared with risks associated with academic programs. The very nature of highly competitive physical activity invites litigation related to physical injury. Historically, the culture of athletics has embraced hazing and other team initiation rituals and accepted “tough coach” practices such as harsh communication, physical handling of students and the use of physical punishment in response to errors or insufficient effort in a school environment that is now intolerant of bullying and verbal, physical, and mental abuse. Further, the focus of athletics on the physical body elevates the probability of questionable coaching practices related to inappropriate congratulatory and skill-instruction touching, frequently without athletes’ permission. Such behavior is particularly risky as our society becomes more focused on sexual harassment. Because the USA coach development system has relied more on apprenticeships under successful mentors than formal training of coaches as licensed and certified teachers, current athletes are at risk of being subjected to now-unacceptable practices repeated by veteran coaches who treat athletes as they were treated during their playing days and who continue to emulate their coaching heroes. Beyond that, athletic programs nowadays are constantly under the media microscope. Our social-media environment is likely to record, report, and instantly spread stories of questionable coaching behaviors, and we live in a highly litigious society in which parents are more likely to defend their children than were parents of previous generations, who tended to treat coaches as “gods.” The result is that the ingredients for litigation and bad press are all too ready to be stirred up into a volatile brew.

The Drake Group examined the rules of athletic governance organizations related to coaching misconduct and found them non-existent except with regard to recruiting and extra benefits limitations. The obligations of coaches as professionals are neither documented nor policed by any professional or licensing organization for coaching. Higher education institution codes of conduct applicable to faculty and staff were also examined and found to be too generic and insufficient to address the elevated risks that exist in athletic programs. Further, the importance of winning

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athletics contests, the multimillion dollar investment in high profile coaches, the relative isolation of athletics practices and locker rooms, which, by nature, are secretive and hidden from public view, and institutions' practice of allowing coaches to resign without exposure to protect the institution's brand, create significant conflict-of-interest concerns about the investigation and adjudication of misconduct. Lastly, the extraordinary power of a coach in athletic settings, with control over access to skill-instructional time, the granting and renewal of athletics financial aid, and decisions related to playing time creates a student/coach power differential that is far greater than the differential between student and professor, potentially leading to "quid pro quo" situations. All of these considerations argue for ensuring that athletes are protected from abuse.

The Drake Group<sup>2</sup> believes that most coaches act responsibly and in the best interests of their players. Even when using now-unacceptable pedagogy, most coaches do so without malicious intent. However, adequate evidence shows that the coaching profession is without clear and consistent standards and that absent such guidelines, too many coaches, albeit a minority, are crossing the line that separates good practice from harm to athletes. Because professional coaching organizations enforce no national coaching standards, national collegiate athletic governance associations must step into this void. School and college administrators need to know these standards in order to exercise proper supervision and address the serious instances of coaching misconduct increasingly reported in the media. Clear and consistent standards coupled with the assignment of education and enforcement responsibilities are needed to protect college athletes.

Thus, The Drake Group proposes that national collegiate athletic organizations adopt seven recommendations to address the professional conduct of coaches including:

1. Adoption of a Coaching Code of Ethics that specifically defines unacceptable behaviors in the areas of physical abuse, romantic, sexual and social relationships, sexual harassment, mental and verbal abuse and discrimination based on race, ethnicity, religion, age, disability, gender, or sexual orientation.
2. Provisions for the implementation and enforcement of such a Code that include:
  - a. its mandated inclusion in employment agreements;
  - b. a process for educating athletes and receiving their complaints;
  - c. designation of all athletic department employees as mandatory reporters;
  - d. whistle-blower protection for reporters and complainants;
  - e. fair plausibility, investigation, adjudication and appeal procedures that protect accused coaches;
  - f. national collegiate athletic governance organization oversight to review all serious coaching misconduct cases and, if necessary, apply additional penalties up to and including banning employment at all member institutions; and
  - g. requiring the national collegiate athletic governance organizations to publish all serious

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<sup>2</sup> The Drake Group is a national organization of faculty and others whose mission is to defend academic integrity in higher education from the corrosive aspects of commercialized college sports. The Drake Group goals include: (1) ensure that universities provide accountability of trustees, administrators, and faculty by publicly disclosing information about the quality of education college athletes receive; (2) advance proposals that ensure quality education for students who participate in intercollegiate athletics, (3) support faculty and staff whose job security and professional standing are threatened when they defend academic standards in intercollegiate sports; (4) influence public discourse on current issues and controversies in sports and higher education; and (5) coordinate local and national reform efforts with other groups that share its mission and goals. The Drake Group is "In residence" at the University of New Haven. For further information see: <http://thedrakegroup.org> or contact David Ridpath, *President at* [Ridpath@Ohio.edu](mailto:Ridpath@Ohio.edu)

coaching misconduct decisions.

3. A proposal that national collegiate athletic governance organizations enter into a partnership with the United States Olympic Committee for the use of its newly established US Center for SafeSport education, investigation and adjudication services.
4. The establishment of specific minimum coaching credentials and vetting of applicants for coaching employment.
5. Implementation of a peer-reviewed certification program that includes an assessment of the professional conduct of coaches.
6. Establishment of an “athlete ombudsman office” funded by the national collegiate athletic governance organization but independently administered.
7. Establishment of required coach orientation and continuing education programs.

### **Need for Rules Governing Coaching Misconduct**

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Despite numerous reported instances of coaching misconduct, national collegiate athletic governance associations and their member institutions have not adopted clear and consistent standards of professional coaching training or conduct.<sup>3</sup> As a result, some college athletes have suffered mental, verbal, and physical abuse, physical injury, and even death. For example, consider the following allegations taken as excerpts from media reports<sup>4</sup>

- ***Mike Lonergan, Head Men’s Basketball Coach, George Washington University***  
“According to multiple players, Lonergan’s critiques crossed the line from constructive to mean-spirited. He told one player his son would always be on food stamps. He told another, in front of the team, he should transfer to a ‘transgender league,’ multiple players said. One person close to a former GW player said he ‘went through hell’ playing for Lonergan because of constant personal comments and critiques. One former player said he attended therapy and considered quitting basketball because of Lonergan’s language and actions toward him...Five current and former players said Lonergan told players Nero requested the practice tapes so he could masturbate while viewing them in his office. The players said Lonergan also told them Nero had engaged in a sexual relationship with a member of the team. Players said they found those comments to be shocking and offensive, with no grounding in reality . . .After each of the past four seasons, three players have transferred out of GW, bringing the total to 13 in Lonergan’s five years. Over the past two seasons, according to people familiar with the situation, the school has fielded complaints from players about Lonergan. While university administrators addressed the concerns with Lonergan, according to a school official, there have been no public consequences.”<sup>5</sup>

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<sup>3</sup> The issue of abuse by coaches is as relevant in high school and open amateur sports as it is in collegiate sport. This position paper is limited to a consideration of the issue with regard to intercollegiate athletics.

<sup>4</sup> The Drake Group does not attest to the accuracy of cited media reports.

<sup>5</sup> Kilgore, A. (2016) GW basketball players report coach’s ‘verbal and emotional abuse’; many fled school. *The Washington Post* (July 21, 2016) Retrieve at:  
[https://www.washingtonpost.com/sports/colleges/gw-basketball-players-report-coachs-verbal-and-emotional-abuse-many-fled-school/2016/07/21/b7d5bd12-4dae-11e6-a7d8-13d06b37f256\\_story.html](https://www.washingtonpost.com/sports/colleges/gw-basketball-players-report-coachs-verbal-and-emotional-abuse-many-fled-school/2016/07/21/b7d5bd12-4dae-11e6-a7d8-13d06b37f256_story.html)

- **Tim Beckman, Head Football Coach, University of Illinois**  
Beckman was fired “after an external review of his behavior revealed that he put his players at risk by deterring them from reporting injuries and pressuring them to continue playing when hurt. The charges were serious, with players reporting that Beckman sent his players back onto the field even when suffering from concussions and knee injuries, and that he taunted those who said they were too hurt to play. Many found it surprising, then, when the University of North Carolina at Chapel Hill’s football program confirmed last week that it had hired the dismissed Illinois coach as a volunteer assistant. Criticism of the hiring was swift, and Beckman resigned by the end of the week (the former coach said he stepped down to avoid being a distraction, and still denies that he abused his players at Illinois). Larry Fedora, UNC’s head football coach, defended his decision to hire Beckman, saying, “I promise you, I didn’t see anywhere where the NCAA said he should be banished from the game of football.” While it’s true that Beckman was not punished by the National Collegiate Athletic Association, athlete welfare advocates say the lack of penalties points less to Beckman’s innocence and more to the NCAA’s failure to create rules protecting athletes from abuse.”<sup>6</sup>
- **Mike Rice, Head Men’s Basketball Coach, Rutgers University**  
“Rutgers University fired head basketball coach Mike Rice on Wednesday after ESPN broadcast a video showing him physically and verbally abusing players. The video, which ESPN said features excerpts of practice sessions shot between 2010 and 2012, initially had earned Rice a three-game suspension, a \$75,000 fine and a ticket to anger management classes. ‘You f\*\*king fairy ... you’re a f\*\*king fa\*\*ot,’ Rice appears to say during one session depicted on the video, which also shows him shoving and throwing basketballs at players. Rutgers President Robert L. Barchi said he had agreed last year with an outside investigator’s recommendation that Rice be suspended, fined and sent to anger management classes. Barchi, who apparently did not review the video at the time, said he concluded Tuesday after viewing it that it showed a “chronic and pervasive pattern of disturbing behavior.”<sup>7</sup>
- **Robert Pullizza, Head Women’s Volleyball Coach, University of Arkansas**  
“The head coach of the University of Arkansas women’s volleyball team resigned Wednesday after a letter sent to the university’s athletic department accused the coach of verbally abusing and threatening his players. The letter -- signed only by ‘extremely concerned Razorback parents’ -- called the coach ‘sadistic and a danger to young minds.’ According to the letter, Robert Pullizza, the head coach, allegedly told one player that she was lucky he didn’t ‘punch [her] out of the gym,’ and he allegedly threatened to keep players from participating in games he knew their families had traveled long distances to watch. The authors of the letter claim that Pullizza frequently referred to his players as ‘weak bitches’ and used other insults. In a statement released before his resignation, Pullizza denied the allegations and said that coaching a college team sometimes requires ‘tough, but fair, love.’<sup>8</sup>

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<sup>6</sup> New, J. (2016) Abused Athletes. InsideHigherEd.com (September 1, 2016). Retrieve at: <https://www.insidehighered.com/news/2016/09/01/advocates-say-uncs-hiring-coach-accused-abuse-points-lack-ncaa-oversight#.V8gUCioXS3R.twitter>

<sup>7</sup> Pearson, M. and Brady, B. (2013) Rutgers Coach Fired After Abusive Video Broadcast. *CNN.com* (April 4, 2013) Retrieve at: <http://www.cnn.com/2013/04/03/sport/rutgers-video-attack/>

<sup>8</sup> New, J. (2015) Tough Love or Abuse? InsideHigherEd.com (December 17, 2015). Retrieve at: <https://www.insidehighered.com/news/2015/12/17/u-arkansas-volleyball-coach-resigns-after-letter-accuses-him-abuse>

- **Keith Brown, Head Women's Basketball Coach, Georgetown University**  
 "Georgetown head women's basketball coach Keith Brown resigned Thursday, the school announced, amid allegations that he has consistently verbally abused his players over the past several seasons. Brown's resignation comes after ABC7 obtained audio of the second-year head coach belittling and cursing out players who crossed him as recently as early last month, sources say, as part of what several current and former players call a pattern of verbal abuse. In audio recordings provided to ABC7 News, Brown can be heard shouting profanities at unidentified players on several occasions. Both of the recordings were taken after a Sept. 6 workout at Georgetown, and in one, he's heard telling a potentially injured player that she was a "dumb f\*\*\*."<sup>9</sup>
- **Mike Leach, Head Football Coach, Texas Tech University**  
 "He [football player Craig James] saw team physician Dr. Michael Phy and Tech's head trainer, Steve Pincock. He reported that his headache had subsided a bit. But he said he had thrown up some time after eating at IHOP and he still felt a little nauseated. His dizziness hadn't completely subsided either. Phy administered a standard diagnostic test, and James lost his balance. That, along with everything else Phy had heard and seen, led him to his diagnosis: mild concussion.

With Pincock looking on, Phy instructed James not to practice for seven days. But he was cleared to follow the team's protocol for players with a mild concussion—dress in team-issued workout clothing and walk laps around the field during practice. But no running or other strenuous activity that might elevate James's heart rate or increase his stress level.

That afternoon, practice had been under way for about twenty minutes when James showed up wearing street clothes, a blue bandanna, a backward baseball cap and sunglasses. Leach spotted him walking nonchalantly around the practice field. Irritated, he turned to Pincock. 'Why's he dressed like that?' Leach said. 'I don't know,' Pincock said. 'He just got here.' 'Why's he wearing sunglasses?' Pincock revealed that James had been diagnosed with a mild concussion. The shades, he said, were no doubt intended to deal with his sensitivity to light. ....

Pincock's report that James had a concussion guaranteed that he wouldn't get much practice time leading up to the Alamo Bowl. Fed up, Leach told Pincock to isolate James from the team for the duration of practice. 'Put his f---ing p---- ass in a place so dark that the only way he knows he has a d--- is to reach down and touch it,' Leach told Pincock. At Leach's insistence, Pincock shared that statement with James. Then he led him off the field to a shed that housed blocking dummies, watercoolers, an ice machine and an ATV. Injured players would sometimes go there to ride a stationary bike. Virtually spotless, the brand-new structure had a tacky, rubberlike floor and an overhead, garage-style pull-down door, as well as a main door on the side. There were overhead lights but no windows. Aided by freshman student-trainer Jordan Williams, Pincock removed anything that James could sit on and made sure the lights were off. He told James that Leach wanted him to remain standing in the dark for the duration of practice. Then he closed the door. Pincock had Williams remain outside the shed to monitor James. Other

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<sup>9</sup> Korff, J. (2013) Georgetown Coach Keith Brown Resigns After Verbally Abusing Players. WJLA (ABC7) (October 10, 2013) Retrieve at: <http://wjla.com/news/local/georgetown-coach-keith-brown-resigns-after-verbally-abusing-players-95194>

than a trip to use the bathroom, James stayed put for the duration of practice—roughly two hours.”<sup>10</sup>

- ***Beckie Francis, Head Women’s Basketball Coach, Oakland University***

“Oakland University fired Beckie Francis as its women's basketball coach because she was mentally and emotionally abusing her players, was "obsessed" with the player's eating habits and body fat and refused to follow orders to separate her religion from her coaching, the school said in a new court filing . . . Free Press reported, based on interviews with a number of current and former players, that Francis:

- Fixated on their weights, to a point that photos were taken of players in their sports bras and Spandex to chart body changes, and that some players developed eating issues.

- Pushed her religious beliefs, insisting players attend church services on trips and showing Christian-based videos on bus rides.

- Engaged in intimidation, emotional abuse and ‘head games’ far beyond common motivational methods used by coaches . . . Oakland, in its court filing, quoted an internal report on the situation as saying, ‘All interviewees/witnesses . . . categorize the allegations as forms of mental and emotional abuse. (Francis) expects automatic compliance with her instructions and/or expectations . . . insulting and demeaning to assistant coaches . . . assumes her priorities/positions are so important that others should defer without question and get irritated when questioned; any difference of opinion is perceived to be a disagreement, and any disagreement is viewed as proof of disloyalty and disloyalty is not tolerated.’”<sup>11</sup>

- ***Spiro Lempesis, Head Baseball Coach, Concordia University***

“He loved his job. He loved coaching. He loved winning. But it was his interest and relationship with one of his players, Anthony Collaro, that ultimately cost him his job. He was so close to Collaro, an adult student-athlete on the team, that he convinced Collaro to perform sexual acts on camera while he videotaped them in his campus office at Concordia University. With dreams of making it to the big leagues, Collaro said he participated because Lempesis promised him meetings with baseball scouts, and threatened to cut his playing time if he didn’t. The former student-athlete also said his coach told him that he could pay off Concordia baseball team fees by making the videos . . . ‘You’ll play baseball and I’ll get you to where you’re going, or if you don’t, things are going to go really sour for you.’ . . . In September 2010, another teammate alleged that Lempesis asked him to participate in sexually explicit videos, too. And when the university discovered the secret, it quietly terminated Lempesis. ‘I regret it because it shouldn’t have happened,’ Lempesis said. ‘I’m the coach. Some people will say I used undue influence. I don’t think so.’”<sup>12</sup>

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<sup>10</sup> Tinley, S. (2013) The Battle Between Mike Leach and Craig James at Texas Tech. *Sports Illustrated* (September 9, 2013). Retrieve from excerpt at SI.com: <http://www.si.com/college-football/2013/09/09/system-leach-excerpt> Note that this incident was the second in three days. Leach had previously removed James and two other players from practice for lack of effort.

<sup>11</sup> Jesse, D. (2013) Oakland Says Beckie Francis Fired for Mentally Abusing Players. *USA Today* (November 11, 2013). Retrieve at: <http://www.usatoday.com/story/sports/ncaaw/2013/11/11/oakland-says-womens-basketball-coach-beckie-francis-fired-for-mentally-abusing-players/3497569/>

<sup>12</sup> Gliha, G.J. (2015) When a Coach is Accused of Sexual Abuse *Aljazeera America* (April 10, 2015). Retrieve at: <http://america.aljazeera.com/watch/shows/america-tonight/articles/2015/4/10/coach-sexual-abuse-collaro-lempesis.html>

Although most of the examples cited above have resulted in termination of the coach's employment, these examples could be considered the tip of the proverbial iceberg. Coaching misconduct is often unreported because:

- The behavior occurs during daily practice where coaches are less likely to be observed by administrators or non-coach employees.
- Often, athletes do not report coaching misconduct because the athlete believes:
  - the coach will retaliate by dismissing the athlete from the team or by making his or her participation so uncomfortable that the athlete will quit;
  - even if the coach does not overtly retaliate, the athlete will be punished by receiving less playing time or instruction;
  - the coach will deny that the behavior occurred, the coach will be believed rather than the student, and other players will not risk coming forward to corroborate the incident
  - the institution has ignored past complaints or the misconduct has not been punished and the likelihood of the coach being punished is slight;
  - the institution will not risk embarrassing media coverage, so it will do everything possible to cover up the transgression;
  - teammates will turn against the complainant, accusing him or her of disloyalty or being a "whiner"; and/or
  - the coach's behavior, although disrespectful to the athlete, is acceptable because athletes have to be "toughened" by coaches to overcome adversity.
- If the athlete reports the conduct to a parent or guardian, the athlete is often encouraged not to complain because parents fear retaliation or may believe coach "toughening" treatment will have a positive rather than a negative impact on a son or daughter, causing their child to "grow up."
- Other members of the athletic or coaching staff who are aware of coaching misconduct fear that reporting such behavior will affect their own employment or their supervisor's view of their loyalty to the program.
- Coaching conduct policies do not exist or, if they do exist, are so generally stated as to be unclear regarding permissible and prohibited conduct.
- No clear complaint, investigation, or adjudication processes exist.

Even if a complaint is received, the institution's interest in protecting its reputation or in continuing to allow a winning coach to manage the team may be more important than student safety. Alternatively, if the misconduct warrants termination of employment, the institution may instead choose to avoid the embarrassment of media exposure by giving the coach an opportunity to resign. It may even offer to recommend the coach for future employment as an enticement to leave in order to avoid extensive media scrutiny. Such an institutional response keeps coaches in the higher education system, posing a health and safety risk to athletes at other institutions.

### **Need for Caution Regarding Reports of Termination for Misconduct**

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Numerous instances of minor coaching misconduct occur that do not trigger termination of employment, especially if they are first time occurrences or are committed by young and inexperienced



coaches. Rather, best human resources practices dictate (1) the use of gradually escalating corrective action measures, (2) the adoption of whistle blower protection as part of a trusted complaint process that removes the employee's fear of retaliation, (3) the creation of clear job descriptions that detail performance expectations and (4) the development of employee conduct policies that clearly define expected and prohibited behaviors. In the case of minor coaching misconduct (i.e., initial instances of a coach using improper language with students or improper use of physical punishment that does not result in harm to players, etc.), the best practice would call for gradually escalating responses to unacceptable employee performance. The responses would start with an informal oral correction, followed by formal oral warning accompanied by written performance improvement plan and finally, a written corrective-action notice that reoccurrence of the misconduct would result in termination or other penalties.

The Drake Group also acknowledges cases in which termination decisions for misconduct (1) are made prematurely for minor misconduct in lieu of using these gradually escalating employee performance improvement mechanisms, (2) are supposedly based on coaching misconduct but in actuality disguise retaliation against Title IX whistleblowers or discrimination based on age or sexual orientation, and (3) reveal a double standard in which coaches with the same team success records are treated differently. Often successful coaches or coaches who are male, white, and heterosexual are treated preferentially, whereas coaches who are outspoken or are female, racial/ethnic minorities, or LGBTQIAAP<sup>13</sup> are treated more harshly, constituting discrimination on the basis of this minority characteristic. The Drake Group recommends two excellent reviews of these questionable employee actions: (1) the recently released Women's Sports Foundation research report *Beyond X's & O's: Gender Bias and Coaches of Women's College Sports*<sup>14</sup> and (2) Pat Griffin's review of lawsuits related to these issues.<sup>15</sup>

Football and men's and women's basketball coaches are more likely to be male and, in Division I, the beneficiaries of multiyear employment agreements that contain specific protections related to termination for cause. Typically, such agreements include a clause that requires the institution to give thirty days or other time period of notice and the "opportunity to cure," which in effect mandates gradually escalating employment actions except in cases of the commission of felonies.<sup>16</sup> These agreements also include other protections (such as prohibition of precipitous termination of employment decisions) that "at-will" employees, a category occupied by most women and minority employees, do not enjoy.

### **Why Coaches and Athletic Programs Face Elevated Risks Compared with Risks Involving Faculty and Other Educational Programs**

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College presidents, athletic directors, and leaders of athletic governance organizations must recognize new realities that elevate the risk posed by coaching misconduct in athletic programs:

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<sup>13</sup> LGBTQIAAP (Lesbian, Gay, Bisexual, Transgender, Queer, Questioning, Intersex, Asexual, Allies and Pansexual)

<sup>14</sup> Don Sabo, Phillip Veliz, and Ellen J. Staurowsky. (2016) *Beyond X's & O's: Gender Bias and Coaches of Women's College Sports* (East Meadow, N.Y.: Women's Sports Foundation, 2016). Retrieve at: <https://www.womenssportsfoundation.org/home/research/beyond-xs-and-os/beyond-xs-and-os-report>

<sup>15</sup> Griffin, Pat. (2016) *College Athletics' War on Women Coaches*. The Huffington Post (March 8, 2015) Retrieve at: [http://www.huffingtonpost.com/pat-griffin/college-athletics-war-on-\\_b\\_6412950.html](http://www.huffingtonpost.com/pat-griffin/college-athletics-war-on-_b_6412950.html)

<sup>16</sup> Kalish, D. (2015) *Coach Contract Rankings*. Hkm.com (NCAA D1 Football Coaching Contracts). Retrieve at: <https://hkm.com/football/coach-contract-rankings/>



- Athletic programs, more so than any other educational program, are under the media microscope. Beat reporters are assigned to look at athletics every day, resulting in a more focused and aggressive media than those covering other educational programs.
- We live in a litigious society and in an era of “helicopter parents” who are more likely to protect their children than were previous generations of parents, who tended to treat coaches as “gods.”
- Our social media environment is more likely to record, report, and instantly spread stories of questionable coaching behaviors than in the past.
- Parents and students are likely to be educated about Title IX, especially its sexual harassment provisions, because of institutional obligations to have and communicate Title IX policies and complaint procedures. Clery Act reporting requirements related to campus violence also elevate the knowledge level of parents and students and reduce the likelihood that campus police and other institutional agencies will be able to conceal this information.
- Hazing and other team initiation rituals that teams historically embraced are now illegal in many states, but still exist.
- Traditions of having team captains wield authority to enact penalties and honoring seniority have unintentionally sanctioned quasi-bullying behaviors.
- The culture of athletics formerly embraced “tough coach” practices of harsh communication and physical handling of students that would be considered misconduct if practiced by other teachers. These practices continue to this day. The absence of comprehensive coach training programs that teach acceptable pedagogy contributes to a continuation of practices in which coaches treat athletes the way their coaches treated them.
- Unlike other teachers, coaches spend extraordinary amounts of time with their athletes. This time commitment poses risks for closer relationships that can advance to elevated levels of intimacy, bantering, and high social knowledge that crosses traditional teacher-student boundaries and enables the coach to use peer pressure and social isolation as mechanisms of control.
- Despite changing patterns in the surrounding society, the athletics subculture can still be a sexist environment dominated by male athletes and coaches. [Note: I have tried to soften this a bit, so as mollify our likely critics, I will certainly understand if you would prefer to maintain the original].
- The power of a coach, who controls access to skill-instructional time, granting and renewal of athletics financial aid, and decisions related to playing time, is much greater than that of a professor.
- The athletics focus on the body elevates the probability of questionable practices related to the use of physical punishment and inappropriate congratulatory and skill-instruction touching, frequently without an athlete’s permission.
- College coaches and athletes often conduct sports camps and workshops for underage populations. They may be unaware of state child protection laws that prohibit many practices, such as the use of physical punishment, emotional and verbal abuse, and bodily contact.

Thus, every institution of higher education should have the strongest possible policies dealing with coaching misconduct.

### **Role of Athletic Governance Organizations Related to Coaching Misconduct**

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The NCAA has no rules related to coaches’ verbal or physical abuse of athletes or bullying. It maintains that (1) it has no legal duty to protect college athletes and (2) institutions, rather than the NCAA, are responsible for athlete welfare. Although the institution must play the primary role in

supervising the conduct of its employees, the athletic governance organization also has an important role to play in ensuring athlete safety and protection. The governance organization should counterbalance the tendency of a member institution to act in its own self-interest, often placing those interests above the health and well-being of its athletes. This responsibility of the governance agency for player protection is analogous to the function of such agencies when they publish and require adherence to sport playing rules that ensure physically safe contests. The governance organization has a comparable responsibility to demand other safe institutional practices related to health and safety of athletes in daily sport practice sessions or in the relationships between coaches and athletes off the playing field. If national athletic governance associations can limit total number of hours athletes can participate in athletics-related activities each week or the total number of contests they can play in a school year, as they currently do, to ensure adequate time for academic preparation and to protect athletes from injury, surely they can devise sensible rules that address mental, physical, and other forms of athlete abuse by coaches.

NCAA rules do not (1) prohibit harmful instructional practices by coaches, (2) require members to adhere to model practices and policies recommended by medical authorities or (3) treat the failure to provide preventive, predictive, or baseline medical testing. The Drake Group considers such failures to be a major dereliction of duty by a national athletics governance association. Instead, the NCAA passes on full responsibility (and liability) to member institutions to the detriment of athletes, who would benefit from higher standards for institutional athletic programs. For example, although the NCAA annually publishes the *NCAA Sports Medicine Handbook* detailing the most up-to-date medical and safety policies and procedures, it only recommends rather than requires member institutions to conform to such practices. Because the NCAA was established in 1905 to address football deaths and other safety concerns, this governance failure is egregious.

The question is not whether institutions or national governance associations should be responsible for dealing with coaching misconduct. Rather, the question is how to achieve an effective synergy between the two – (1) the national governing body, which defines model practices and policies and (2) the member institutions, which adopt and implement them. The NCAA prioritizes protecting the interests of coaches and other athletic department employees when it chooses not to ensure that its member institutions protect the health and well-being of athletes. The NCAA's interpretation of amateurism protects the institution's right to economically exploit athletes and allows revenues from such exploitation to enrich coaches and athletic administrators. In other words, the NCAA acts like a trade association for their interests. Similarly, when the NCAA fails to require institutions to provide athlete health protections by paying for these medical and related benefits, it places the use of revenues to benefit coaches and other employees above the health and well-being of athletes.<sup>17</sup>

## **Obligations of Coaches as Professionals**

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<sup>17</sup> The NCAA currently returns a significant portion of its championship revenues to member institutions with no restrictions for its use, does not sponsor an FBS football championship, allowing the College Football Playoff to be independently owned by and benefit only a limited number of institutions (the ten FBS conferences) and does not require that extraordinary media rights fees be used to increase athlete benefits. For example, while the NCAA requires that all college athlete be insured against athletic injury, it does not require institutions to pay for this coverage. Such policies must be paid for by athletes or their families as a condition of participation. Thus, when institutions aren't required to provide extensive benefits to its athlete labor force, those funds are used to provide excessive salaries to coaches and athletic directors. In short, when the NCAA on one hand restricts value of athletic scholarship, prohibits athlete salaries and does not require institutions to pay for health and other athlete benefits, it benefits coaches and other athletic department staff members who are paid substantial salaries -- thereby acting like a trade association for these employees.

Coaches are teachers of sport. Like teachers, they must meet training and educational requirements. In other countries, such standards are usually established by the Ministry of Sport or another governmental agency with responsibilities for youth, elite, and mass participation sports. In the United States, which lacks federal control of sports, training and licensing standards are set at the state level. The results are minimal standards that only apply to required public education in grades K-12.<sup>18</sup> Although comprehensive coaching education and training programs exist,<sup>19</sup> state agencies typically do not require a degree in coaching or sport-specific coach certification for K-12 employment.<sup>20</sup> Colleges and universities do not require such a degree or certification either. Thus, college coaches have minimal, if any, education or certification requirements compared to teachers employed as faculty. States typically require fingerprint criminal background checks and certifications in first aid, CPR, use of AEDs, etc. of all teachers and coaches. However, state requirements vary greatly with regard to sport-specific training. Most states require some or all of the following courses: fundamentals of coaching, concussion education, heat illness prevention (particularly in southern states) and knowledge of state high school athletic association rules. These coaching and often state specific courses may be fulfilled by completing college courses, online offerings, or one-day workshops. Notably, these state laws do not apply to intercollegiate athletics or open amateur non-school sports. Qualifications for employment of coaches at the college level are typically left to the discretion of the higher education institution.

In addition to sport-related training, coaches, like lawyers, doctors, teachers, and other persons “who belong to a profession are bound either by professional codes of conduct or by contracts that contain standards of conduct. A professional person who fails to meet the duties required of that profession may be judged incompetent. Such a ruling by a court, a professional disciplinary board, or an employer may result in professional discipline, including loss of a license to practice, demotion, or termination of employment.”<sup>21</sup> Codes of professional conduct or ethics are typically promulgated by professional organizations to maintain high standards among professional members and their respective professions. Violation of the ethics code can result in suspension or expulsion from membership and removal of membership credentials by a disciplinary committee that can, in turn, mean loss of an educational credential required for employment. For example, the medical doctor who lost his or her license for soliciting sex from patients in exchange for painkillers or the lawyer who married his or her ailing, elderly client to obtain his fortune would face disciplinary action.

Unfortunately, absent a license or educational requirement to coach at the college level and a national association that might logically promulgate such standards and offer certifications, no infrastructure exists to demonstrate that coaching is a profession. Although coaches’ associations for almost every sport exist at the state and national levels, few of them promulgate training standards, codes of conduct, or ethics codes. When these associations do publish such expectations, they seldom enforce them with complaint, investigation, and adjudication procedures.

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<sup>18</sup> National Federation of State High School Associations. (2016) State Coaching Requirements Database. Retrieve at: <https://nfhslearn.com/home/coaches>

<sup>19</sup> The National Committee for Accreditation of Coaching Education, established in 2000 by educational sport leaders, accredits organizations seeking to establish coaching education standards, using the National Association for Sport and Physical Education (NASPE) National Standards for Sport Coaches (originally established in 1995 and updated in 2006).

<sup>20</sup> Certificates or licenses of coach training, usually offered at various levels, recognized or offered by national and international sport governing bodies such as USA Soccer or USA Field Hockey

<sup>21</sup> West's Encyclopedia of American Law, 2<sup>nd</sup> edition. (2008) The Gale Group, Inc. as cited in *TheFreeDictionary.com*. Retrieve at: <http://legal-dictionary.thefreedictionary.com/Professional+Obligation>

Given the explosion of media attention to incidences of coaching misconduct, state and national interscholastic and intercollegiate athletic governance organizations and the United States Olympic Committee (for open amateur sport) have been pressured to promulgate and enforce rules related to the professional conduct of coaches. For instance, the United States Olympic Committee (USOC) governs the activities of national sport governing bodies (“NGBs”) in all Olympic and Pan American Games sports. In 2012, the USOC adopted the *Minimum Standards Policy for NGB Athlete Safety Programs* for all NGBs, which are in turn expected, but not required, to apply such requirements to their respective member clubs and coaches. By December 31, 2013 each NGB, for its national programs, was required to adopt the SafeSport program which has the following minimum components:

1. *A policy that prohibits bullying, hazing, harassment (including sexual harassment), emotional misconduct, physical misconduct, sexual misconduct (including child sexual abuse) and romantic or sexual relationships between NGB program participants and coaches or other supervisory personnel having direct supervisory or evaluative control or who are in a position of power or trust over the participant. This relationship prohibition excludes relationships in which no imbalance of power exists or preexisting relationships between two spouses or life partners.*
2. *A requirement for “criminal background checks for those individuals it formally authorizes, approves or appoints (a) to a position of authority over, or (b) to have frequent contact with athletes.”*
3. *Beginning January 1, 2014, implementation of “education and training concerning the key elements of their safety program for those individuals it formally authorizes, approves or appoints (a) to a position of authority over, or (b) to have frequent contact with athletes.”*
4. *A procedure for reporting misconduct.*
5. *A grievance process to address allegations of misconduct following the report or complaint of misconduct that has not been adjudicated under a criminal background check. The process must include the opportunity for review by a disinterested individual or body.*<sup>22</sup>

Failure to meet these minimum standards could result in disciplinary action against the NGB, including the withdrawal of high performance funding, a significant penalty. The *USOC SafeSport Policy* handbook provides extensive instructions regarding reporting, investigation and adjudication procedures. Penalties may include being banned from coaching in a sport.<sup>23</sup>

The National Federation of State High School Associations (“NFHS”) has a membership consisting of all state high school associations conducting athletic programs and a Coaches’ Code of Ethics. However, the NFHS does not “govern” the state associations. Thus, the policies and guidelines the NFHS develops and promotes are optional for adoption by the state associations and therefore do not automatically become rules applicable to all members of the state association. Most of the state associations do adopt the NFHS Coaches’ Code of Ethics but most fail to specify mechanisms for complaints, investigation and enforcement with the exception of coaching misconduct during actual contests. Thus, existing coaching codes of ethics are merely aspirational.

At the college level, neither the NAIA, NJCAA, nor NCAA enforces coaching conduct policies outside of game conduct specified as part of the rules of a sport. Although Title IX affords institutional

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<sup>22</sup> United States Olympic Committee. (2012) *USOC Minimum Standards Policy for NGB Athlete Safety Programs*. Pp. 1-2. Retrieve at: <http://www.teamusa.org/Footer/Legal/Governance-Documents>

<sup>23</sup> *Ibid.* See USOC SafeSport Policy.

protections to all students, including athletes, at the high school and college levels, regarding teacher or coach sexual harassment and assault and other forms of discrimination based on sex, the NAIA, NJCAA, and NCAA do not address most other types of abuse previously mentioned. Thus, the only national sport governance association that requires coaches to adhere to a code of conduct designed to protect the safety of athletes is the USOC, albeit only its national sport governing body members. The good news is that national collegiate athletic governance organizations like the NCAA, NAIA, NJCAA, etc. do not need to “reinvent the wheel”. Rather, the USOC SafeSport policies and system are easily adaptable for use by colleges and universities.

One of the challenges for the USOC system was addressing the inherent conflict of interest involved in national sport governing bodies being asked to investigate themselves or their members. NGBs proved to be poor police, with concerns for the reputations of their respective sports undermining the conduct of an unbiased investigatory and adjudication process and self-interest taking precedence over athlete safety and protection. The USOC studied the feasibility of establishing an independent investigation and adjudication body for this purpose, similar to USADA, the national anti-doping commission. In September of 2016, the USOC announced the creation of the US Center for SafeSport, a nonprofit organization with an education-and-outreach program and a response-and-resolution office that will investigate allegations of misconduct. The latter “will respond to abuse claims and implement a unified set of policies for preventing, identifying and reporting misconduct among the 47 national governing bodies (NGBs) that oversee USOC sports.”<sup>24</sup> National collegiate athletic associations may wish to investigate a partnership with the USOC in this regard.

### **Are Institutional Codes of Conduct Applicable to Faculty and Staff Sufficient to Protect College Athletes?**

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Most institutions of higher education have faculty and staff codes of conduct or ethics that require faculty to demonstrate respect for and demonstrate honesty and fairness in all dealings with students. In addition, such codes typically prohibit faculty from (1) discriminating on the basis of sex, race, ethnic origin, sexual orientation, marital status, age, citizenship, medical condition, disability or other arbitrary or personal reasons, (2) engaging students in romantic or sexual relationships, and (3) harassment, exploitation or causing harm to students through coercion, bullying or intimidation. Whistle-blower protection is usually assured, and detailed disciplinary processes exist. Yet, despite the existence of these policies and processes, coaches may not always be held to these standards.

Part of the reason for this double standard is that coaches are less likely to be employed as “faculty,” especially within Division I institutions. Whether they are at-will or multiyear contract employees, they live in a “no man’s land” between classified and academic professional staff. Athletics is often isolated from normal educational operations of the institution — physically separate from classroom buildings in facilities restricted for use by athletes, coaches, and athletic personnel only. Athletes do not complain about coaches because of the evident power differential, and non-athletic department faculty or administrators are unavailable to object to misconduct. In addition, culturally, within higher education, the standards of classroom behavior are not applied to coaches. “Tough coach” behavior, and the bullying and disrespectful approach typified by this moniker, are accepted and tolerated. Indeed, the media champion such behavior as essential to on-the-field success.

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<sup>24</sup> Meyers, S. (2016) Agency will Address US Olympic Team Abuse Claims. *USA Today* (September 23, 2016) Retrieve at <http://www.athleticbusiness.com/governing-bodies/safesport-agency-will-address-u-s-olympic-team-abuse-claims.html?eid=192575929&bid=1537511>

Neither the faculty nor the public have seen sufficient examples of coaches raising their voices to positively urge athletes to greater effort and performance. Too often, bullying, physically striking athletes, or using profanities accompanies the raised voice. Similarly, coaches too often get their players into correct positions on the field by yanking them around a field or court. When the power differential between coaches and other institutional employees is added to the mix, the failure to hold coaches held accountable for professional misconduct is easy to understand. Even if national sport governing association rules required institutions to hold coaches accountable for their behavior toward athletes, institutions might well respond to allegations of misconduct by coaches the same way many of them have responded to allegations that their athletes have committed sexual assault or other crimes. That is, institutions would likely defend and enable -- rather than condemn -- coach misconduct, unless a cell phone video, audio recording or long record of transgressions offends public sensibilities. History shows that winning athletic teams trump expectations of professional and civil coaching behavior.

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## CONCLUSION AND RECOMMENDATIONS

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In summary, we conclude the following: (1) existing higher education codes of ethics and conduct with regard to professional behavior are insufficient to address coaching misconduct and are not currently being applied to coaches; they are also unlikely to be applied in the future absent public exposure of video or audio evidence of the most objectionable behavior; (2) many institutions are not providing college athletes with necessary mental and physical health and well-being protections, and in many cases are allowing athletes to be subjected to intimidating and hostile educational environments; and (3) the power differential between coaches and athletes and even between coaches and their supposedly higher administrators or employee subordinates is so great as to preclude use of existing complaint processes. The Drake Group believes this status quo is unlikely to change absent significant external pressure by national collegiate sport governing organizations. These organizations must make clear that they will not tolerate professional misconduct by coaches toward athletes. The recommendations identified below are offered to achieve this result.

The Drake Group also emphasizes the delimitations of this position paper. We recognize that faculty and employee codes of ethics cover far more than harmful conduct to students (e.g., conflict of interest, misuse of institutional resources for personal, commercial, political, or religious purposes., academic dishonesty, academic freedom, treatment of other employees, commission of felonies, violations of institutional policy, unauthorized representation of institutional positions, etc.). We have chosen to focus on the narrower issue of coaching conduct as it affects the health and well-being of college athletes. We refer the reader to *The Drake Group Calls Upon the NCAA, Its Member Institutions and Higher Education Regional Accreditation Agencies to Fulfill Athlete Academic Protection Responsibilities*, a previous Drake position paper on protecting athletes from academic exploitation.<sup>25</sup>

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### Recommendation #1                      Adoption of a Coaching Code of Ethics

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**National collegiate sports governance organizations should adopt a Coaching Code of Ethics similar to the current USOC Coaching Ethics Code<sup>26</sup> applicable to coaches and other athletic department employees who have direct supervisory or evaluative control over, are in a position of**

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<sup>25</sup> Gurney, G , Lopiano, D., Porto, B., Ridpath, D.B., Sack, A., Willingham, M., Zimbalist, A. (2015) *The Drake Group Calls Upon the NCAA, Its Member Institutions and Higher Education Regional Accreditation Agencies to Fulfill Athlete Academic Protection Responsibilities*. (April 16, 2015). Retrieve at: <http://thedrakegroup.org/>

<sup>26</sup> United States Olympic Committee. USOC Coaching Ethics Code. Retrieve at: <http://www.teamusa.org/USA-Karate/Officials-and-Coaches/Coaches-Resources/USOC-Coaching-Ethics-Code>

power or trust regarding, or have frequent contact with athletes. Such a Code should reinforce the ethical and professional code applicable to institutional faculty, but should also specify the expected and prohibited behaviors common to athletics environments. The Code should cover at least the following specific issues of athletics environments that have caused significant concerns:

**a. Physical Abuse. Physical abuse should be prohibited including:**

- touching an athlete in a non-instructional, non-consoling, or non-congratulatory way;
- requiring or suggesting that an athlete perform a physical act that has no relevance to the sport and is intended to embarrass, degrade, or punish,<sup>27</sup>;
- requiring or suggesting that an athlete continue to perform a physical act, whether it is relevant to the sport or not, that compromises established conditioning and safety guidelines including the creation of practice situations in which an athlete is mismatched physically with an opposing athlete and is in danger of being harmed<sup>28</sup>;
- failing to stop an activity in which an athlete is clearly being subjected to physical harm;
- physically striking an athlete or throwing objects at athletes to get their attention or express dissatisfaction;
- disrespectfully yanking or aggressively attempting to move an athlete in anger even if for the purpose of moving the athlete into a proper strategic position<sup>29</sup>;
- if unlicensed as an athletic trainer, masseuse or therapist, performing massage on athletes (must be performed by a licensed allied health professional approved by the institution and performed in an appropriate place);
- pressuring or allowing an athlete to return to practice or competition following an athletic injury contrary to the advice of medical doctors and licensed athletic trainers; and
- allowing captains or team leaders to require physical activities outside of practice or to levy sanctions or physical punishments in any way including hazing.

**b. Romantic, Sexual or Social<sup>30</sup> Relationships. Given the control and power of a coach over athletes, romantic, sexual or non-team related social relationships should be expressly prohibited including:**

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<sup>27</sup> One of the most difficult practices for coaches to unlearn is the use of physical conditioning (push-ups, suicides, running laps, etc.) as punishment in response to missing academic classes, lack of effort or repeated mistakes. Coaches think this is acceptable because it also provides extra conditioning work. However, just as we have stopped hitting children and other practices that can border on abuse, coaches must rethink what is actually being taught. Do we want to send a message to players that it is permissible to physically punish their children, a spouse or other individuals when they are not happy with what they do or say. Physical punishment is an inappropriate method of discipline in an educational setting. Rather, effective discipline requires the taking away of privileges or something valued by the athlete, such as being in the starting line-up, not playing in the next game, or sitting the bench. Conditioning activities have an appropriate place in every sport program but not as a disciplinary tool.

<sup>28</sup> A trained professional physical education or physical activity teacher or coach is professionally responsible for recognizing harmful practices such as purposefully creating mismatches in practice where smaller players are pitted against larger players in contact drills. Good judgment must always prevail and explanations such as “it will make them tougher” no longer suffice.

<sup>29</sup> Generally, any teacher should ask for permission before touching a student. For instance, before spotting an athlete in gymnastics and coach or teacher should explain that “spotting” an athlete is a safety measure and should demonstrate how spotting will be performed. Coaches could obtain blanket permission at the beginning of a season, explaining that at times, part of instruction may include touching a student for the purpose of placing an arm or other body part in the correct mechanical position or, if on the playing field or court, placing hands on a player’s waist to move them to a strategic position, adding that coaches will never touch athletes in anger like pulling on a face mask or yanking a jersey.



- exchanging romantic gifts;
  - engaging in a dependent friendship with any athlete, spending social time with an individual athlete or a group of athletes outside the team environment or engaging in social communications (social, non-work related texting, etc.) with athletes not directly related to job responsibilities;
  - invading the athlete's privacy during non-working hours or outside of regularly scheduled practice and competition; and
  - using e-mail, text-messaging, or instant messaging with individual athletes to discuss social or other inappropriate topics with athletes.
- c. **Sexual Harassment.** All forms of sexual harassment, as prohibited by Title IX, should be prohibited:
- commenting on athletes' bodies or appearance in a sexual or disrespectful manner;
  - making sexual jokes, using sexual gestures or innuendos or engaging in inappropriate sexually oriented banter with athletes (e.g. discussion of the athlete's dating behavior, sharing the staff member's own sexual exploits, marital difficulties, or activities unrelated to position responsibilities);
  - engaging in or suggesting a quid pro quo sexual activity with any athlete or prospective athlete suggesting that such acts are necessary to receive an athletic scholarship, playing time, participation on the team at a specific position or a place on the team;
  - failing to immediately report to the campus Title IX coordinator any student-to-student or coach/staff member-to-student incident of sexual harassment or abuse and to act immediately to restore a safe educational environment as required by Title IX; and
  - interference in campus or external athlete sexual harassment or assault investigation and adjudication processes or arranging for legal or other athlete assistance not available to non-athlete students.
- d. **Verbal or Emotional Abuse.** All forms of disrespectful communication resulting in a harmful educational environment, verbal abuse or unacceptable pedagogical practices should be prohibited including:
- excessively, in comparison to treatment of other athletes, singling out the student through negative interactions<sup>31</sup>;

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<sup>30</sup> Coaches will frequently maintain that they must develop a strong and trusting relationship with athletes and one in which an athlete is not afraid to come to the coach with personal problems. However, professional conduct requires that relationships with students be developed within the normal team activity or educational setting and not via one-on-one "friendships" or off-campus non-team small group social activities as "one of the guys." Further, coaches are not trained or licensed to be counselors and should not see themselves in the role of providing athletes with personal advice. The role of the coach is to educate players on the availability of such services on campus or within the community. Further, a teaching professional does not engage in social text messaging with players.

<sup>31</sup> Key to understanding the difference between respectful and appropriate individual error correction and abuse or harassment of an individual player is tone, intent, name-calling that is not the name of the player but ascribing an uncomplimentary attribute to the player and/or excessive repetition. There is a significant difference between saying "we need to work harder" or asking for a player's maximum effort and resorting to name-calling which is nothing more than replacing physical punishment with verbal abuse. If a math teacher would be criticized for speaking to students in a particular way in the classroom, the same rules apply to a coach on the playing field. Professionalism does not preclude coaches from raising their voices because their teaching environment is within larger spaces or to convey enthusiasm, excitement or intensity of effort. However, there is a line that prohibits a coach or teacher from berating a student or losing one's temper and

- routinely using profanity or other degrading language, verbal intimidation, denigration or other forms of bullying or hazing in communicating with or controlling athletes;
  - devaluing a student's role on the team, potential for success, or value as a person or allowing teammates to treat each other in these ways;
  - engaging in error correction in ways that target personal attributes or characteristics of the athletes (e.g., alleging that the athlete is too fat or being weak or lazy);
  - constantly blaming an individual, team or groups of players for failures;
  - threatening physical punishment, removal of scholarship or other retaliatory action in response to poor athlete performance;
  - isolating a player by ignoring him or her or suggesting that other athletes adopt similar behavior as a punishment mechanism;
  - failing to be responsive to respectful athlete questions regarding the purpose and intended effect of training and instructional activities; and
  - engaging in or allowing athletes to engage in verbal discourse that denigrates others.
- e. **Discrimination.** Any form of discrimination against any athlete or group of athletes based on race, ethnicity, religion, age, disability, gender, or sexual orientation should be expressly prohibited.
- f. **Athlete Protection.** Coaches are expected to undertake ongoing efforts to maintain competence in pedagogy specific to the skills of their sports, exercise judgement based upon current scientific and professional information in their fields of activity<sup>32</sup>, and report concerns regarding the physical or mental well-being of athletes to professionals licensed to diagnose and treat such issues.

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## **Recommendation #2                      Implementation and Enforcement of the Coaching Code of Ethics**

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The national collegiate sports governance organization should require that all member institutions establish the following specific procedures for implementing the code, including staff and athlete education and procedures for the reporting, investigation and adjudication of complaints related to coaching misconduct. Such policies and procedures should include the following:

1. **Coaches and other staff members working with athletes at all member institutions shall be required to comply with the Code as a condition of employment with such requirement documented in any employee at-will or multiyear employment agreement. Specifically, the agreement shall include annual employee acknowledgement that engaging in any of the following instances of serious misconduct will subject the employee to immediate suspension (while charges are pending) or termination of employment following completion of investigation and adjudication processes that confirm the violation (see #8 below):**
  - **Arrests for or convictions or pleas of nolo contendere for crimes committed at work or outside of work that reflect unfavorably upon a staff member's suitability for continued employment;**
  - **Violation of the criminal laws on Institutional property or while on Institutional business;**

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engaging in angry speech. Professional conduct demands a rethinking of the "Knut Rockne" coach stereotype.

<sup>32</sup> Coaches should be required to annually review the *NCAA Sports Medicine Handbook* and the *NCAA Sports Institute Mental Health Best Practices*. See <http://www.ncaa.org/sport-science-institute> for other athlete protection resources.

- The manufacture, possession, use, distribution, dispensation, or sale of illegal drugs, or the abuse of alcohol on university time or premises;
- Failing to act reasonably to voice or causing violation of safety rules or procedures or engaging in prohibited pedagogical or other practices that results in endangering the health, causing significant physical injury or psychological harm to, or leading to the death of athletes or others; or
- Violation of the institution's employee conduct policies.

Further, the agreement shall include a provision specifying that refusal by the employee to respond fully and accurately during investigations of such complaints by the institution or to participate in the national collegiate governance association's determination of whether the coach should be banned from employment at other member institution shall be considered as a presumption of guilt unless coach involvement in a pending or potential lawsuit would make such testimony self-incriminating.

2. Athletic department employees shall be designated as mandatory reporters if they observe violations of the Code, with failure to report subjecting these employees to disciplinary penalties.
3. The institution shall provide "whistleblower protection" to any athlete or athletic department employee submitting a complaint or alleging coaching misconduct. Retaliation against a complainant or reporter in any form shall be strictly prohibited and shall be immediately reported to the national collegiate athletic governance organization.
4. Member institutions shall be required to conduct annual staff and athlete education meetings detailing the requirements of the code and misconduct complaint procedures.
5. Misconduct complaint procedures shall include the reporting of misconduct to either the athletic director, a trained non-athletic-department compliance employee, or the national collegiate athletic governance association, at the option of the complainant.
6. In the case of minor misconduct by coaches (e.g., using profanity, engaging in verbal discourse that denigrates another, grabbing an athlete by the face guard, yanking an athlete into position by grabbing her jersey, etc.<sup>33</sup>) that results in no significant physical or psychological harm to the athlete but nevertheless represents unacceptable pedagogical practice, the coach's supervisor shall use institution's standard HR gradual escalation of disciplinary processes: (1) informal oral warning, (2) written warning and performance improvement plan, including reevaluation at a time certain, and (3) written warning including specific corrective action (e.g., suspension, termination, etc.) in the event of a failure to correct.
7. The member institution shall be prohibited from providing the employee with legal representation during investigation and adjudication processes (unless all employees receive legal representation) or otherwise interfering with the misconduct complaint proceedings.
8. In cases involving serious coaching misconduct resulting in harm to athletes or other individuals (see #1 above), the institution shall implement the following procedures:

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<sup>33</sup> The Drake Group acknowledges that, historically, the athletics culture has inappropriately tolerated such coach behavior. If such behavior is inappropriate for an academic teacher in the classroom, it should be unacceptable for the conduct of educational sport on the playing field or court.

- a. Whether reported to the institution or the collegiate athletic governance organization, prior to the suspension of any employee for serious misconduct, the institution must convene an independent third-party panel (unbiased parties with no association to the institution as employees, donors, alumni, or business affiliates) to determine the plausibility of allegations. The complainant and the coach alleged to have engaged in misconduct, among others determined by the panel, shall have the opportunity to appear before the panel. If the allegation is determined to be plausible the coach shall be suspended pending the outcome of investigatory and adjudication processes.
  - b. The coach shall be entitled to retain legal counsel at his or her own expense to advise the coach during interviews and proceedings.
  - c. The institution shall provide the complainant and the coach accused of misconduct with a written statement of the allegations and shall conduct a formal investigation by an independent third party that shall include interviews with all witnesses, the complainant and the coach accused of misconduct.
  - d. The institution shall convene an independent third party panel to receive and consider the report of the investigator and conduct adjudication procedures that shall include the opportunity for the coach to respond to all allegations and the requirement for a written decision.
  - e. The accused and the complainant (or the victim of the abuse, if other than the complainant) shall both have the right to appeal the decision of the adjudication panel to the national collegiate governance organization, which shall provide a written decision.
  - f. Following the completion of all adjudication and appeal procedures, any determination resulting in substantial penalties that include suspension and termination of employment, shall be reported to the national athletic governance association or, such report shall be required if the coach resigns before the investigation and adjudication are completed.
9. The national collegiate athletic governance organization shall review all institutional decisions related to the offending coach to determine if additional penalties should be imposed, including banning institutions from employing a coach at any member institution for a time certain or permanently. A written decision shall be required of any additional action taken, which shall be publicly available.
- a. During the consideration of such further action, the coach and the institution shall have the opportunity to address the national collegiate athletic governance organization reviewing panel.
  - b. Even if the national collegiate athletic governance organization takes no further action, the organization shall maintain records of disciplinary action against coaches for serious violations and make them available to the public via a web site database.

National collegiate sport associations should investigate a partnership with the USOC regarding common use of its US Center for SafeSport education, investigation and adjudication services.

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**Recommendation #4**                      **Minimum Coaching Credentials and Vetting of Applicants for Coaching Employment**

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National collegiate athletic governing organizations should establish minimum credentials, including educational and training requirements for coaches at all member institutions that should include:

- For assistant coaches, completion of a bachelor’s degree. For head coaches, completion of a master’s degree,<sup>34</sup> noting that the master’s degree is the minimum educational credential required of most non-tenure-track teaching faculty in higher education. Moreover, its attainment indicates a respect for and completion of a disciplined intellectual process and the probable assimilation of higher education values. Given the high level of risk inherent in coaching intercollegiate athletics, high educational standards should be maintained. Such minimum degree requirements should be “grandfathered” (i.e., not required) for any coach up to the effective date of this legislation. For all new head coaches hired by member institutions within the first five years after the master’s degree requirement is adopted, a temporary minimum baccalaureate degree requirement should be enforced with the requirement that the master’s degree be earned no later than five years from the effective date of this legislation.
- Sport specific coaching certification or licensing requirements, such credential to be “grandfathered” for any coach employed by a higher education institution up to the effective date of legislation.
- Minimum coaching coursework and teaching or coaching experience, such requirements to be developed by an expert group assembled for that purpose and be “grandfathered” for any coach employed by a higher education institution up to the effective date of legislation.
- Annual certifications in first aid, CPR, use of AEDs, or other emergency medical training typically required of all physical activity teachers.
- Fingerprint criminal background checks.
- Completion by every coach and other athletic department employee who has direct supervisory or evaluative control, is in a position of power or trust over or has frequent contact with athletes, of a disclosure statement that should include a description of all:
  - a. prior criminal convictions;
  - b. pending criminal charges;
  - c. disciplinary actions taken by any previous employer;
  - d. findings of civil liability related to misconduct resulting in harm to others;
  - e. arrests or citations involving driving under the influence of alcohol or drug use;
  - f. misconduct based on moral turpitude;
  - g. other vetting required of all faculty employees at the member institution.

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**Recommendation #5**                      **Implement a Peer Reviewed Certification Program That Includes**

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<sup>34</sup> The Drake Group notes that most college coaches begin their apprenticeship as “graduate assistants” under college coaches, a coaching category with minimum rules and conditions. The adoption of the minimum master’s degree requirement would give new and important academic direction to those occupying these graduate assistant positions.

## **Assessments of the Professional Conduct of Coaches**

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Each member institution's athletics program should undergo a comprehensive national athletics governance association certification review at least once every ten years. The certification program should consist of peer review, external to the institution as administered and funded by the governance association, of a campus-wide self-evaluation conducted by various committees assembled for that purpose, including the ethical conduct of coaches and other athletic department employees. A majority of the members of these committees should be tenured faculty members. Note: established in 1993 as a central plank in an NCAA reform agenda, the NCAA certification program, which included a much more comprehensive examination of athletic programs than the traditional higher education regional accreditation agencies conduct, including a review of rules compliance, was discontinued in 2011 and should be reinstated.

### **Recommendation 6.                    Establish a National Collegiate Athletic Governance Organization Athlete Ombudsman Office**

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National collegiate athletic governance organizations respectively should establish independent athlete ombudsman offices (modeled after the USOC athlete ombudsman operation<sup>35</sup>) to provide confidential assistance to athletes seeking advice on responding to coaching misconduct, questions about national athletic governance organization rules, and other issues of concern to athletes. The office should have access to a wide variety of expert resources concerning health, legal, and other issues. Consideration should be given to making available a 1-800 number, live online counseling and/or resources that athletes may access at any time. The office should maintain data about such contacts to use for research purposes. Member institutions should be required to annually distribute contact instructions and information about the services of the Ombudsman Office to every athlete.

### **Recommendation 7.                    Orientation and Continuing Education Programs for Coaches**

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Given the absence of comprehensive coach education and licensing programs in the United States for other than sport specific skill and strategy instruction, conferences should develop required orientation programs for new coaches hired by their member institutions and should deliver continuing education programs for all coaches. Such programs should address not only professional conduct issues, but also the coach-student relationships, academic responsibilities, relationships with and responsibilities toward the academic institution, and the latest research regarding optimum and high risk instructional and conditioning practices.

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<sup>35</sup> See <http://www.teamusa.org/Athlete-Resources/Athlete-Ombudsman> for a description of the USOC Ombudsman program.